

REMARKS

STATUS

Claims 1-40 remain pending in the application and claims 41-48 have been added. Claims 1-4, 10, 18, 21-26, 34, and 38 have been amended. The invention set forth by claims 1-6, 9-13, 15-26, 29-33, and 35-40 are alleged not to meet the requirements of 35 U.S.C. § 102(b) as being anticipated by U.S. Patent. No. 5,772,585 to Lavin et al. (hereinafter "Lavin") and claims 7, 8, 14, 27, 28, and 34 are alleged not to meet the requirements of 35 U.S.C. § 103(a) as being unpatentable over Lavin and U.S. Patent. No. 5,929,851 to Donnelly (hereafter "Donnelly"). The applicants respectfully traverse the allegations and respond as follows.

Support For New Claims Added

It is respectfully submitted that the new claims are supported by the present application as filed in the Patent and Trademark Office, that the new claims satisfy the written description requirement and the other requirements of 35 U.S.C. § 112, and that no new matter is being added.

It is submitted that the subject matter added in claims 41-48 is specifically disclosed in Figs. 4 and 5 and line 1, page 11 through line 13, page 14 of the Detailed Description of the application as originally filed.

CLAIMS 1-48 MEET THE REQUIREMENTS OF SECTIONS 102(b) AND 103(a)

The first issue of patentability raised by the Office action, and which the applicants must overcome, is whether each and every limitation of claims 1-6, 9-13, 15-26, 29-33, and 35-40 is found in Lavin. The second issue of patentability raised by the Office action concerns the combination of Lavin in view of Donnelly, and whether the combination renders unpatentable claims 7, 8, 14, 27, 28, and 34 under 35 U.S.C. § 103(a). The applicants submit that claims 1-48 meet the requirements of both 35 U.S.C. § 102(a) and 35 U.S.C. § 103(a), and therefore, claims 1-48 are allowable. Applicants address the rejections separately as to each independent claim and the claims that depend therefrom.

§ 102 Rejection based on Lavin

Claims 1-17 and 41-43

Independent claim 1 as amended is directed to an electronic health care system that includes a modular framework and a display in communication with the modular framework for providing a graphical user interface to a system user. The modular framework includes a plurality of activities, where each activity supports one or more aspects of patient care. The graphical user interface is adaptable for displaying information corresponding to one or more of the activities, and includes a dynamic menu format for communicating available operations in the graphical user interface, and common visual components for displaying information to the system user. In particular, amended claim 1 recites that the graphical user interface is adapted to dynamically adjust responsive to data associated with a user.

Lavin generally discloses a system for storing patient data in a relational database. However, it is respectfully submitted that Lavin does not disclose the use of a graphical user interface that dynamically adjusts in response to data associated with a user, nor does Lavin disclose a dynamic menu format that is utilized by the graphical user interface for communicating available operations to the user.

While Lavin discloses the desirability of a graphical user interface capable of accessing a number of tasks through a common database structure, nowhere does Lavin disclose a graphical user interface that dynamically adjusts in response to data associated with a user. To the contrary, Lavin merely discloses a simple, static graphical user interface that remains the same for all users. In other words, Lavin provides no disclosure of a graphical user interface that is adapted to adjust in response to information associated with a user to allow new activities to automatically open for the user as he or she proceeds with a workflow or moves between multiple workflows.

The distinction between the two types (a static, non-changing graphical user interface on the one hand and a dynamically adjusting graphical user interface on the other) is important because, while it may be known in the art to create simple static graphical user interfaces, applicants submit that it was not known prior to the invention hereof (and likewise, submit that it is not suggested by any of the cited art) to adapt a graphical user interface to dynamically adjust responsive to data associated with a user, which is wholly different than generating a static graphical user interface. The dynamic adjusting of a graphical user interface enables an organization to, for example, adjust a graphical user

interface to have a specific configuration for a billing clerk, or perhaps all billing clerks, that includes all of the activities that the billing clerk would need access to, while adjusting the graphical user interface for a doctor, or all doctors, so that the graphical user interface is different from that presented to the billing clerk. Thus, a clinical activity which would be presented to the doctor on the graphical user interface adjusted for the doctor would not be presented to the billing clerk, thus preventing the billing clerk from making clinical diagnoses, ordering procedures, writing prescriptions for controlled substances, etc. Dynamically adjusting a graphical user interface in response to data associated with a user is an advantage not known or suggested by Lavin, or any of the other art of record which merely presents a static graphical user interface.

The graphical user interface and modular framework recited in amended claim 1 also allows system users to freely switch between activities available within the system, even before completing a particular activity. The system users are therefore not forced into finishing a particular activity before gaining access to another activity, allowing for example, emergency situations to be addressed immediately without loss of information or work flow in an interrupted activity. The Lavin system does not appear to disclose any such modular framework having similar capabilities.

Because Lavin fails to disclose each and every limitation of amended claim 1, Lavin cannot anticipate or render unpatentable claim 1. It is therefore respectfully submitted that independent claim 1, and claims 2-17 and 41-43 which depend therefrom are allowable over Lavin.

Claim 11

Applicants note that the rejection of claim 11 in the March 24, 2005 Office action fails to address whether the limitation added in this claim may be found in Lavin. As such, the March 24, 2005 Office action fails to set forth a *prima facie* case of anticipation as to claim 11. On this basis alone, the rejection of this claim should be withdrawn.

However, applicants submit that, even if the allegations had been made that the particular limitation recited in claim 11 can be found in Lavin, the rejection cannot stand. Applicants have reviewed Lavin, and have failed to find any disclosure, teaching or suggestion in regard to the limitation particularly recited in claim 11. For this reason as well, the rejection should be withdrawn.

Claims 18-20

Amended independent claim 18 recites a graphical user interface that includes, *inter alia*, a dynamic menu format for communicating available operations in the graphical user interface and an activities toolbar that dynamically lists available activities within a workspace, and dynamically adjusts responsive to data associated with the system user. As discussed above with reference to claim 1, the graphical user interface disclosed in Lavin does not perform a similar function. The only graphical user interface disclosed in Lavin is one that is static for all users of the system. Thus, the invention recited in claim 18 is not anticipated by Lavin. It is therefore respectfully submitted that claim 18 and claims 19-20 which depend therefrom are allowable over Lavin.

A claim is anticipated by a reference only if "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP § 2131.

Claims 21-37 and 44-46

Amended independent claim 21 is a method claim directed to providing a fully integrated graphical user interface that displays in a dynamic menu format available operations and activities in a modular framework. In particular, claim 21 includes dynamically adjusting the menu responsive to data associated with a system user. It is respectfully submitted that none of the cited references, either alone or in combination, disclose such a method. Therefore, claim 21, and claims 22-37 and 44-46 which depend therefrom, are not anticipated by any of the cited references.

Claims 38-40

Similar to claim 21, amended independent claim 38 is directed to a method of providing a graphical user interface that includes dynamically adjusting a menu responsive to data associated with a system user. As indicated above, Lavin does not disclose providing a graphical user interface that dynamically adjusts a menu in response to data associated with a system user. Because Lavin does not disclose or suggest the desirability of dynamically adjusting a menu responsive to data associated with a system user, it is submitted that claims 38-40 are not anticipated by Lavin.

§ 103(a) Rejection based on Lavin in view of Donnelly

To establish a *prima facie* case of obviousness, and hence to find claims 7, 8, 14, 27, 28, and 34 unpatentable under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based upon applicant's disclosure. MPEP at § 2142.

As to claims 7, 8, and 14, because Lavin fails to disclose each and every limitation of claim 1 from which these claims depend, and Donnelly does not provide the missing disclosure, then the combination of Lavin and Donnelly fails to disclose, teach or suggest each and every limitation of these claims as well, at least for this reason. As to claims 27, 28, and 34, because Lavin fails to disclose each and every limitation of claim 21 from which these claims depend, and Donnelly does not provide the missing disclosure, then the combination of Lavin and Donnelly fails to disclose, teach or suggest each and every limitation of these claims as well.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

Dated: May 10, 2005

Respectfully submitted,

By 

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